

claimed by McAttee, to secure the payment of the aforesaid sum of \$12,000, which mortgage never was recorded, or reported to the Chancellor for his approval, but was subsequently, on or about the 1st of January, 1846, returned by said Schley to Dall, and by him destroyed.

It was also agreed, that a schedule of judgments against Dall, prior to those under which the defendant McAttee purchased, filed as exhibit No. 1, should be received as evidence, by which it appeared that the incumbrances subject to which the purchase was made, amounted to nearly sixty thousand dollars, being about the value of the lands, as appraised by the sheriff's appraisers on the 7th of September, 1847, the sale being made by the sheriff on the 11th of November of that year, for \$500, subject to those incumbrances.

The agreement further stipulated, that for the purpose of presenting the question, whether the alleged equitable lien of the complainants could be enforced against McAttee, the purchaser, the matters of fact set forth in the answer of the latter, should be considered as if regularly proved, and that a paper filed and marked exhibit No. 2, should also be considered, as if proved under a commission. This paper, which is the sheriff's return to the writs of *feri facias*, under which McAttee purchased the lands, shows the payment of the purchase money by him, and by the certificate of the crier appended to the return, it appears, that the property sold for the sum of \$500, subject to all prior claims and judgments, and that McAttee, who was present in person at the sale, heard the crier give notice that the property would be sold, subject as aforesaid.

It was also agreed, that the answer of McAttee presents the question, whether he, as a *bona fide* purchaser, without notice of the alleged equitable lien of the complainants, would be bound by said lien, and if so considered, the Chancellor should be of opinion, that the said McAttee would be relieved from responsibility to the complainants, and should be further of opinion, that his answer does not present the case of a *bona fide* purchaser without notice, then, the said answer may be amended, if, in the opinion of the Chancellor, the said McAttee, prior